

**City of Gardner
Conservation Commission**



**Minutes of the Meeting of
May 23, 2016, 6:30 p.m.
Second Floor Meeting Room, City Hall Annex**

Members present:

Norman Beauregard, David Beauregard, Duncan Burns, Chairman Greg Dumas, Donna Lehtinen, and David Orwig. Also present was Conservation Agent Jeff Legros.

Members absent:

Jane Cullen

PUBLIC HEARINGS

6:30 Chairman Dumas requested to go out of order in the interest of time to honor a special guest Boy Scout in attendance for his service to the Commission and City of Gardner. There was no opposition from the public attendees, or Commission members.

6:53 Chairman Dumas resumed the joint Public Hearing under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Notice of Intent** filed by **Conrad Donell**, 106 Lancaster Road, Shirley, MA, remediation of a Wetland and Certified Vernal Pool and its associated protective buffer zone as required by an enforcement order issued by the Gardner Conservation Commission under the Gardner Wetlands Protection Ordinance (City Code 650).

This hearing was continued from the Meeting of May 9, 2016, pending a request and receipt of an itemized peer review proposal from Tighe & Bond. Tighe & Bond provided a revised, itemized scope of work proposal and Agent Legros distributed it to the Commission and proponent for review.

In the meeting of May 9, 2016, Mr. David Crossman expressed concern that the cost of services was too high and that individual tasks were not itemized by cost. He and Mr. Donell also expressed concern that some tasks may be unnecessary.

Chairman Dumas informed Mr. Donell that an itemized proposal was requested of Tighe & Bond and Agent Legros presented him with a copy of that revised proposal for his review.

The Commission reviewed the scope of work proposal submitted by Tighe & Bond and concluded that a minimum of two site visits, a preliminary and post-restoration inspection should be required. They also agreed that the Restoration Schedule was reviewed by Tighe and Bond as a component of Phase I Peer Review. Chairman Dumas asked the Commission and the Agent if they were all

comfortable with their review of the Notice of Intent and its content. The Commission Members and Agent Legros stated that they were. Given this the Commission agreed that the Notice of Intent Review was not necessary and that the Commission could request additional site visits if needed.

The Commission and proponent discussed the matter in open meeting upon reviewing the revised proposal and agreed that the peer review should consist of a minimum of a preliminary, pre-restoration assessment site visit (\$1,025.00), a post-restoration assessment site visit (\$1,025.00), and an onsite review and validation of the wetland flagging delineation (1,530.00). The total cost of Phase II peer review services would be \$3,580.00.

Mr. Donell and Mr. Crossman agreed to the reduced tasks and the total costs for those three items stated above. Mr. Donell stated that he could provide the Commission with a check in that amount within one or two days.

The Commission was satisfied that the restoration plan and area would meet the intent of the remediation required by the enforcement order and that the peer review terms and tasks to be conducted would help to ensure successful implementation. They were also satisfied that the current erosion control measures within the restoration area were suitable to meet the performance standards of the Wetlands Protection Act and Gardner Wetlands Protection Ordinance to protect the interests of a Certified Vernal Pool and Isolated Vegetated Wetland.

7:03 A motion was made by D. Beauregard to close the hearing. The motion was seconded by D. Burns and voted unanimously all in favor.

MEETING

Guests & Visitors

Jack McDermott, Boyscout, Gardner Resident; **Matt McDermott**, Gardner Resident
Jay Rasku, Mount Grace Land Trust; **Conrad Donell**, Trustee, Sunshine Realty Trust.

Order of Conditions

7:10 A motion was made by D. Beauregard to issue an Order of Conditions with special conditions, as detailed in the restoration plan and comments provided by Mass DEP, to Conrad Donell, Trustee, Sunshine Realty Trust, for the restoration of a Vernal Pool and associated buffer zone at Sapphire Park near Ruby Road and Opal Lane. The motion was seconded by D. Burns and voted unanimously all in favor.

Minutes

6:35 A motion was made by D. Beauregard to approve the Meeting Minutes of April 25, 2016. The motion was seconded by D. Burns and voted unanimously all in

favor.

- 6:36** A motion was made by D. Beauregard to table the Meeting Minutes of May 9, 2016 until the meeting of June 13, 2016. The motion was seconded by D. Burns and voted unanimously all in favor.

Request for Determination of Applicability

- 6:37** The Gardner Conservation Commission resumed the joint Public Meeting under MGL, Ch. 131, § 40, Wetlands Protection Act and the City of Gardner Wetlands Protection Ordinance on the **Request for Determination of Applicability** filed by **Pan Am Railways**, represented by Keith Morris, Environmental Consultant, related to work located along the Pan Am Railways Right-of-Way, to be conducted under a Vegetation Management Plan (VMP). The Commission shall determine whether the boundaries of resource areas depicted on the plan and/or maps are accurately delineated.

Agent Legros again notified the Commission that a site visit had been conducted on May 16, 2016 with Mr. Morris and Pan Am Railways.

- 6:40** A motion was made by D. Beauregard to issue a 'Negative Determination #3' according to 310CMR 10.03(6)(b), a 'Negative Determination #5' according to 310CMR 10.58(6)(a) and a 'Positive Determination #2a' confirming the boundary delineations as marked according to observations in the field and the approved Rights-of-Way Vegetation Management Plan (VMP) maps. The motion was seconded by D. Lehtinen and voted unanimously all in favor.

Request for Certificate of Compliance

None

Enforcement Order

- 7:04** Sunshine Realty Trust, Conrad Donell Trustee, Sapphire Park at Pearl Street and Shawn Avenue (*Continued from Meeting of May 9, 2016*):

- Status Update: Notice of Intent – Vernal Pool Violation Remediation
- Peer Review – Phase II

- 7:05** A motion was made by D. Beauregard to request fees in the amount of \$3,580.00 from Mr. Conrad Donell for Phase II of peer review services to be conducted by Tighe & Bond at Sapphire Park as required by an open Enforcement Order for violations associated with the clearing of land within a Protected Wetland Resource Area and the buffer zone of a Certified Vernal Pool. The motion was seconded by D. Lehtinen and voted unanimously all in favor.

Emergency Certification

None

Presentations

6:31 Certificate of Recognition and Appreciation – Boy Scout, Jack McDermott

Presented on this 23rd day of May, 2016 by the Gardner Conservation Commission in recognition of his service to the City and its people for his efforts building an access trail within the Cummings Otter River Conservation Area, and hence, making the area and its unique geology and natural features more accessible to a greater array of people of all ages and abilities. For this the Gardner Conservation Commission thanks you and congratulates you on advancement to Star Rank.

6:35 Chairman Dumas, Commission members, Agent Legros and public attendees offered their personal remarks, gratitude, and encouragement to Jack for his endeavors.

6:41 Jay Rasku, Mount Grace Land Trust – *Wellness Path and Garden Update*

Mr. Rasku updated the Commission on recent trail maintenance and cleanup work along the Wellness Path and plantings at the Diabetes Center for Excellence Garden. Maya Apfelbaum, MassLIFT AmeriCorps Community Engagement Coordinator for Mount Grace Land Trust, led volunteers from the Mount Wachusett Community College Hiking Club, Heywood Hospital, and City of Gardner to coordinate recent efforts to continue to improve upon the area explore its potential as a community engagement, wellness and educational forested garden and recreation area.

Mr. Rasku presented the Commission with a sketch of a proposed spur trail linking the existing wellness path to the corner of the Hospital Parking lot nearest to the Main Emergency Room Entrance. The trail would consist of an unimproved pedestrian pathway and would not require the cutting or any trees or excavation of any soils. It would use existing contours and be designed and build using and incorporating the existing natural contours and features and with careful consideration of the adjacent Crystal Lake Reservoir. He did not anticipate any negative impact from the development or use of the trail and stated that it would be created by volunteers using small hand tools (primarily rakes and pruners) and would not excavate or alter any soils or existing gradients. He asked for the Commissions support of this idea.

6:52 A motion was made by D. Burns to express the Commission's support of the creation of a pathway linking the existing wellness path nearer to the Main Entrance of Heywood Hospital. The motion was seconded by N. Beauregard and voted unanimously all in favor.

New Business

- **Freedom's Way Connecting Communities and Hidden Treasures events report of activities from Agent and Commission Members:**

Agent Legros described the Blue Trail Paddle at the Otter River Conservation Area and the Guided Hike at the Cummings Otter River Conservation Area as great successes. There were over 40 people in attendance between the two events. Agent Legros thanked Commission members J. Cullen and D. Orwig for attending the events and each expressed their pleasure with the events and their use and promotion of our top-notch Conservation Lands.

- **Boy Scout Trail Project – Report from Scout and Recognition of Service from Commission on his service project toward Star Rank – Troop 9:**

See minutes under “Presentations” above.

Old Business

- **Pitcherville Road, Hubbardston – Non-hazardous fill (potential project):**

Agent Legros notified the Commission that there will be two public hearings related to the import of soils in the Town of Hubbardston on Tuesday, May 31st and that he will plan to attend. He also plans to meet with Mayor Hawke and members of the Hubbardston Planning Board at their request.

- **Sapphire Park Phase I Completion Approval, DEP #160-0511 Special Condition:**

Mr. Donell has not yet received approval or sign-off on the completion of Phase I and subsequent permission to work within Phase II from the Zoning Board of Appeals. He must receive that approval before the Commission can authorize any work within Phase II.

- **Landscape Partnership Grant Award – Commission letter to Mayor requesting support for funds to be expended and reimbursed:**

Agent Legros notified the Commission that he had met with Janet Morrison and that Mr. Omealia had not confirmed any participation in the Landscape Partnership grant project to sell, donate, or have a Conservation Restriction placed on his land. Therefore, inclusion of the Omelia property should be removed from the letter and sent to the Mayor who will forward it to City Council (not send it directly to City Council as previously thought). Agent Legros will revise the letter accordingly and send it along.

- **Report of possible work within wetlands - 50 Dyer Street:**

Agent Legros informed the Commission that he and Commissioner D. Burns had contacted the property owner, Ms. Angela Mandeville, on May 16, 2016 to inform her of a potential violation and the need to stabilize and remediate the area at ounce. On, May 19, Ms. Mandeville notified Agent Legros that the silt fence and straw wattles were in place on site to prevent further erosion.

Agent Legros informed the Commission that the site was protected but that it must be loamed and seeded to permanently stabilize the site in its original

condition. The Commission and Agent Legros agreed that the work should be done immediately to facilitate seeding, establishment and permanent stabilization.

Agent Legros will inform Ms. Mandeville that she may proceed with loaming and seeding the site at ounce.

Adjournment

8:00 Motion to adjourn was made by N. Beauregard. The motion was seconded by D. Lehtinen and voted unanimously all in favor of adjournment.

Respectfully submitted,

Jeffrey D. Legros, Conservation Agent

All materials used at the meeting are available for viewing at the office of the Conservation Agent, Room 202 of the City Hall Annex.

Minutes are available as follows:

- Minutes are available on the City of Gardner website (www.gardner-ma.gov) under Conservation Commission.
- By appointment or request in Conservation Agent's office, Room 202 of the City Hall Annex
- Community Development & Planning office, Room 201 of the City Hall Annex